

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD MULLINS,

Plaintiff,

-against-

CITY OF NEW YORK, acting through the New York City Police Department and the Civilian Complaint Review Board; NYPD POLICE COMMISSIONER DERMOT SHEA; NYPD DEPUTY INSPECTOR BIENVENIDO MARTINEZ; NYPD ASSISTANT CHIEF JOSEPH B. VENEZIANO; CCRB EXECUTIVE DIRECTOR JONATHAN DARCHE; and CCRB DEPUTY CHIEF PROSECUTOR SUZANNE D. O'HARE,

Defendants.

No. 1:21-cv-05578

DECLARATION OF EDWARD D. MULLINS

EDWARD D. MULLINS declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am the Plaintiff in this action, a Sergeant in the New York City Police Department (“NYPD”), and President of the Sergeants Benevolent Association (“SBA”). The SBA is a municipal labor organization with approximately 13,000 members who are current and former NYPD sergeants. I am making this declaration to provide the Court with information in support of my motion for a preliminary injunction that will prevent the Defendants from retaliating against me for my political statements and for exercising my First Amendment right to freedom of speech.

2. I exercised my freedom of speech by speaking as a citizen and union leader on the SBA union Twitter account to criticize political positions of City officials. The Defendants are unlawfully retaliating by threatening to impose NYPD disciplinary penalties against me for my

political statements. The threatened discipline includes suspending or terminating my status as an NYPD sergeant, which would disqualify me from continuing to serve as the elected President of the SBA. The Defendants, acting under cover of law as government officials, are using government power in an effort to intimidate me and control or silence my criticism of government leaders for their political positions on matters of public concern, and to remove me from my elected position as President of the SBA.

3. Speaking publicly on matters of concern to SBA members and the public is an important part of my responsibilities as SBA President. As explained more fully below (¶ 11), Executive Order No. 75 of the Mayor of New York authorizes me to spend all of my time on union activities. I am on full release from normal NYPD police officer duties such as patrol. Executive Order No. 75 specifically recognizes that my union activities include holding press conferences and issuing press statements. Since being elected SBA President in 2002, I have frequently spoken on television, radio, Facebook, Twitter, and by email to advocate for NYPD police sergeants and promote changes which improve relations between the police and the community while protecting the safety of police officers and the community.

4. The Defendants are now attempting to suppress my First Amendment right to speak on political issues by bringing charges against me in NYPD disciplinary proceedings for three of my public statements on the SBA Twitter platform criticizing political positions taken by City government leaders.

5. As explained more fully below (¶¶ 15-23), the first SBA Twitter statement for which the Defendants seek to punish me is my criticism of Dr. Oxiris Barbot, Mayor de Blasio's then Health Commissioner in 2020 in the middle of the Covid pandemic. The NYPD had discovered that the Health Department was warehousing 500,000 protective masks and other

personal protective equipment in New Jersey. When the Chief of Department at the time, Terence Monahan, asked for the masks to be issued to officers in the field, Barbot told Monahan that she did not give “two rats’ asses about your cops.” I strongly criticized her and referred to her as a “bitch” for her disregard of police risking their lives to protect the community. Health Commissioner Barbot later apologized to the NYPD, and acknowledged that she was wrong and should not have dismissed the need to supply police officers with essential N-95 masks. But now the Defendants are seeking to discipline and punish me because in their opinion my statements as SBA President criticizing Health Commissioner Barbot were “disrespectful.”

6. The second SBA Twitter statement for which the Defendants seek to punish me is my comment responding to political remarks made by New York City Councilman Ritchie Torres. (*See* below ¶¶ 32-35.) At a press conference, Torres falsely accused the NYPD of a slowdown in making arrests, and blamed the police for increasing gun use by criminals. When Torres made his accusations he was running for Congress and raising money based on these attacks on the NYPD. I criticized him and referred to him as a “first class whore” for selling out the safety of the police and falsely blaming the police for violence by criminals. Again, the Defendants are seeking to discipline and punish me because in their opinion my statements as SBA President criticizing Torres were “disrespectful.”

7. The third SBA Twitter statement for which the Defendants seek to punish me is my statement on the Mayor’s handling of violent public protests, in which I copied and commented on material placed in the public domain by others about the involvement of the Mayor’s daughter in unlawful violation of City orders imposed during violent public protests. (*See* below ¶¶ 24-31.) The Defendants claim some of the information about the Mayor’s daughter was confidential police information. But the information they complain about had already been publicly disclosed and

posted by Shawn Cohen (“Cohen”), an investigative reporter for the Daily Mail. My statement on the SBA Twitter account responded to Cohen’s report on “breaking” news of the arrest of the Mayor’s daughter. I questioned the Mayor’s motivations to enforce the law during political protests. The Defendants now seek to punish me for information put in the public domain by the press, not by me, and for my criticism of political leaders.

8. The full context and background of my statements, and the Defendants’ campaign to silence me and my criticism on important public political issues, are explained in detail below.

A. My position in the NYPD and SBA

9. I was appointed to the NYPD in January 1982. Prior to my election as SBA President on July 1, 2002, I served ten years on patrol in Manhattan, and was promoted to detective in 1992. In 1993, I was promoted to sergeant, and was assigned to the 19th Precinct, as well as the Detective Bureau in Brooklyn South, where I served in the 67th Precinct Detective Squad, the Special Victims Squad, and the Kings County District Attorney’s Office.

10. I was elected as President of the SBA in 2002. The SBA is the fifth-largest police union in the country, and the country’s largest superior officers’ union. The SBA is recognized by the City of New York as the sole and exclusive bargaining representative for all NYPD sergeants. The SBA’s central mission is to advocate for the interests of, its NYPD police sergeant members.

11. As President of the SBA, I am engaged exclusively in union activities while on full-release from regularly assigned duties as an NYPD Sergeant. My release from regularly assigned duties is authorized under Executive Order No. 75 (as amended) of the Office of the Mayor, which allows union representatives holding official union positions to be designated for release from regular duties so that they may spend their time on union business. Union activities under Executive Order No. 75 include, among other things, holding press conferences and distributing

press releases. A copy of Executive Order No. 75 and of Executive Order No. 6, amending Executive Order No. 75, is attached below as Exhibit 1.

B. My public role contributing to national and local political debate on policing

12. During my tenure as SBA President, I have regularly spoken up in national public discussions on policing. I have appeared on CNN, 60 Minutes, CNBC, Fox News, Newsmax, Spectrum News NY 1, and many major New York networks. I have been interviewed by Laura Ingram, Anderson Cooper, Jeanine Pirro, Sean Hannity, Bill O'Reilly, and Joe Piscopo, as well as dozens of local cable news and radio shows and podcasts. I have been discussed and quoted in articles in The New York Times, Wall Street Journal, New York Daily News, New York Post and The Gothamist. In August 2020, I was the subject of a featured article in New York Magazine covering my efforts to combat police reforms which threaten the safety of rank-and-file police officers nationally.¹ I have been a vocal critic of Mayor Bill de Blasio and the New York City Council, who have consistently spoken out against law enforcement and have sponsored and pushed controversial anti-law enforcement legislative and social agendas.

C. The SBA Twitter platform

13. In addition to commenting on public issues through traditional media outlets, I have also communicated on public issues through Twitter, Instagram, and Facebook.

14. The SBA Twitter account (@SBANYPD) is the official Twitter page for the NYPD SBA. It is not affiliated with New York City or any of its agencies, including the NYPD. The SBA Twitter account is used for messages and notices to SBA members, commentary on current political events and issues, and events involving law enforcement. It has been widely followed,

¹ See James D. Walsh, *Sgt. Mullins Goes To War*, N.Y. MAGAZINE (Aug. 19, 2020), <https://nymag.com/intelligencer/article/ed-mullins-sba-nypd-union.html>.

reaching at times some fifty-eight thousand (58,000) followers. Several mainstream media outlets follow the account, and posts from the account have been routinely featured in major publications, including The New York Times, New York Post and the Daily News.

D. My SBA Twitter comment on the Health Commissioner’s position that she did not give “two rats’ asses” about protecting police from Covid

15. In March of 2020, during the height of the Covid-19 pandemic, NYPD officers faced a severe lack of Personal Protective Equipment to protect themselves from contracting and/or spreading the deadly disease. Accordingly, the NYPD requested approximately 500,000 surgical masks from former New York City Health Commissioner Oxiris Barbot (“Barbot”) to protect themselves and the residents of New York City.

16. In late March, during a conversation with NYPD Chief of Department Terence Monahan, Barbot informed Monahan that she could not fulfill the request and, during a heated discussion, remarked: “I don’t give two rats’ asses about your cops. I need them for others.”²

² See Melanie G. West, *Coronavirus Response Exposes Friction Between Top New York City Officials*, WALL ST. J. (May 14, 2020), <https://www.wsj.com/articles/coronavirus-response-exposes-friction-between-top-new-york-city-officials-11589498686>; Melissa Russo and Jonathan Dienst, *Calls for NYC Health Chief Oxiris Barbot To Resign After Rejecting NYPD PPE Request*, NBC NEW YORK (May 14, 2020), <https://www.nbcnewyork.com/news/local/calls-for-nyc-health-chief-oxiris-barbot-to-resign-after-rejecting-nypd-ppe-request/2416244/>; Rhea Mahbubani, *“I Don’t Give 2 Rats’ Asses About Your Cops”: New York City’s Health Commissioner Reportedly Blew Off an NYPD Request For 500,000 Masks*, BUSINESS INSIDER (May 14, 2020), <https://www.businessinsider.com/new-york-health-commissioner-dismisses-nypd-surgical-mask-need-coronavirus-2020-5>; Maria Caspani and Rajesh K. Singh, *New York City Health Chief’s Firing Urged Over Spat with Police on Masks*, REUTERS (May 14, 2020), <https://www.reuters.com/article/us-health-coronavirus-usa-newyorkcity/new-york-city-health-chiefs-firing-urged-over-spat-with-police-on-masks-idUSKBN22Q3AR>; Larry Celona et al., *NYC Health Head Rejected NYPD Mask Plea: “I Don’t Give Two Rats’ Asses About Your Cops”*, NY POST (May 13, 2020), <https://nypost.com/2020/05/13/nyc-health-commissioner-wouldnt-supply-nypd-with-masks/>.

17. Barbot reportedly claimed she could only spare the NYPD 50,000 masks. However, it was later revealed that the NYC Department of Health and Mental Hygiene had masks and other medical equipment stored in a warehouse in New Jersey, and NYPD officials were able to secure 250,000 additional masks by negotiating directly with City Hall.

18. When Barbot's extraordinary remark was made public in May of 2020, it received significant attention in local and national press. Dozens of publications, including, but not limited to the New York Post, The Wall Street Journal, NBC New York, Business Insider, and Reuters, published articles recounting Barbot's appalling response to the NYPD's plea for PPE.³

19. On May 13, 2020, at approximately 11:36 P.M., I wrote and posted, as President of the SBA, the following tweet on the SBA Twitter account calling out Barbot for her statement:

Truth is this bitch has blood on her hands but why should anyone be surprised the NYPD has suffered under DeBlasio since he became Mayor.

NYC health head rejected NYPD mask plea: "I don't give two rats' asses about your cops' nypost.com . . . Again, the NYPD fails to comment. Why did it take 2 months for it to be made public. Why did Monaghan sit silent? He should of [sic] exposed her to the media.

A copy of my tweet is attached as Exhibit 2.

20. My tweet addressed Barbot's irresponsible position on protecting members of the NYPD and the public from spreading and contracting Covid-19, as well as Chief Monahan's failure to object to Barbot's statement. I quoted the New York Post's report that Barbot stated "I don't give two rats' asses about your cops."

21. Other prominent political figures also publicly commented on Barbot's remark, and many called for her resignation or removal. These included former Representative Max Rose

³ See articles cited in footnote 2 above.

(D-NY 11), Representative Lee Zeldin (R-NY 1), New York City Councilman Joe Borelli, former Assemblywoman and now Representative Nicole Malliotakis (R- East Shore/South Brooklyn).⁴ Representatives Rose and Zeldin and Councilman Borelli used Twitter to publicize their comments.⁵

22. The President of the NYPD Police Benevolent Association (“PBA”), Patrick Lynch, and the President of the NYPD Detectives Endowment Association (“DEA”), Paul DiGiacomo, also joined me in calling for Barbot’s resignation or removal as a result of her indifference toward the safety of NYPD officers. All three organizations took to Twitter to publicize their call for her removal.⁶

⁴ See Michael R. Sisak, *NYC Health Chief Under Fire for Alleged Remark About Police*, ABC NEWS (May 14, 2020), <https://abcnews.go.com/Health/wireStory/nyc-health-chief-fire-alleged-remark-police-70688323>; Maura Grunlund, *S.I. Pols, Police Unions Call for Firing of Health Honcho Over Alleged NYPD Remark Amid COVID-19*, SILIVE (May 14, 2020), <https://www.silive.com/news/2020/05/si-pols-police-unions-call-for-firing-of-health-honcho-over-alleged-nypd-remark-amid-covid-19.html>; Maria Caspani and Rajesh K. Singh, *New York City Health Chief’s Firing Urged Over Spat With Police On Masks*, REUTERS (May 14, 2020), <https://www.reuters.com/article/us-health-coronavirus-usa-newyorkcity/new-york-city-health-chiefs-firing-urged-over-spat-with-police-on-masks-idUSKBN22Q3AR>.

⁵ See Michael R. Sisak, *NYC Health Chief Under Fire for Alleged Remark About Police*, AP NEWS (May 14, 2020), <https://apnews.com/article/146654c274718e59013f96556e69391b>; see also @RepLeeZeldin, Twitter (May 14, 2020, 10:53 AM), <https://twitter.com/RepLeeZeldin/status/1260946316605210627?s=20>; Adam Warner, *De Blasio Slams “Misogynist” Language After NYPD Union Calls City’s Health Commissioner a “B****” Over Comment About Police*, AUDACY/1010 WINS (May 14, 2020), <https://www.audacy.com/1010wins/articles/health-commissioners-comments-about-nypd-cause-outrage>.

⁶ See DEA, *SBA Call for NY Health Commissioner To Be Fired After Alleged Comments Against the NYPD*, NEWS 12 (Oct. 4, 2020), <https://bronx.news12.com/dea-sba-call-for-ny-health-commissioner-to-be-fired-after-alleged-comments-against-the-nypd-42130650>; *Police Unions Call for Firing of City Health Commissioner*, SPECTRUM NEWS NY1 (May 14, 2020), <https://www.ny1.com/nyc/all-boroughs/politics/2020/05/14/nyc-coronavirus-dr-oxiris-barbot-should-be-fired-police-unions-say-after-nypd-masks-comments>.

23. In the following weeks, Barbot issued a public apology to Monahan and the NYPD for her repugnant remark. Barbot ultimately resigned from her position as Health Commissioner a few months later. Both of these events were highly publicized in the local and national press.⁷

E. My SBA Twitter comment on the Mayor, his daughter's arrest, and the information put in the public domain by members of the Press

24. In late May 2020, New York City saw dozens of protests across all five boroughs in response to the death of George Floyd in Minnesota. Many of these protests became violent and destructive, requiring significant responses from law enforcement. By the end of May 2020, over two dozen officers were injured while responding to the protests, nearly fifty (50) NYPD vehicles were damaged or destroyed, and dozens of retail stores had been looted and vandalized.⁸

25. NYPD officers were out on the front lines without any clear or realistic directives from the City or the NYPD on how to respond to the violence and destruction they faced. Not only did NYPD officers face a lack of direction and leadership which threatened their safety, but they were also met with a shameful lack of support from City and State officials. Governor

⁷ See Gloria Pazmino, *Health Commissioner Apologizes To NYPD for Heated Dispute Over Masks*, SPECTRUM NEWS NY 1 (May 19, 2020), <https://www.ny1.com/nyc/all-boroughs/news/2020/05/18/city-health-commissioner-oxiris-barbot-issues-apology-to-nypd-over-comments-made-during-coronavirus-mask-supply-meeting>; Erin Durkin, *City Health Commissioner Apologizes for NYPD Remark*, POLITICO (May 18, 2020), <https://www.politico.com/states/new-york/albany/story/2020/05/18/city-health-commissioner-apologizes-for-nypd-remark-1284501>; J. David Goodman, *N.Y.C. Health Commissioner Resigns After Clashes With Mayor Over Virus*, N.Y. TIMES (Aug. 4, 2020), <https://www.nytimes.com/2020/08/04/nyregion/oxiris-barbot-health-commissioner-resigns.html#:~:text=Oxiris%20Barbot%2C%20resigned%20on%20Tuesday,to%20reopen%20schools%20and%20businesses>; Amanda Eisenberg, *Barbot Steps Down As Health Commissioner*, POLITICO (Aug. 4, 2020), <https://www.politico.com/states/new-york/albany/story/2020/08/04/barbot-steps-down-as-health-commissioner-1304941>.

⁸ See Alan Feuer and Azi Paybarah, *Thousands Protest In N.Y.C., Clashing With Police Across All 5 Boroughs*, N.Y. TIMES (May 30, 2020), <https://www.nytimes.com/2020/05/30/nyregion/protests-nyc-george-floyd.html>.

Andrew Cuomo went as far as claiming that the NYPD was not doing its job and had failed in its duty to protect the City. Governor Cuomo further declared that Mayor de Blasio, who refused assistance from the National Guard, was underestimating the severity of the violent protests that overtook the City.⁹

26. As President of the SBA, I had been outspoken about the City and NYPD's lack of planning and leadership, including its reluctance to adequately equip police officers responding to the violent protests. The lack of direction and leadership put the safety and lives of SBA members, and all members of service, as well as the public, at risk. I criticized the NYPD's failure to properly equip the members of the SBA, and all police officers, with proper riot gear and explicit instruction on how to address the violence in the streets.

27. On May 30, 2020, Chiara de Blasio, Mayor de Blasio's daughter, was arrested while participating in a protest near Union Square.¹⁰ Chiara de Blasio was reportedly part of a group that was throwing objects at police officers, though it was not reported that she personally had thrown anything at officers. However, when given a lawful order to disperse, she was reported as

⁹ See Nathan Layne and Maria Caspani, *New York Governor Cuomo Says Police Failed To Do Their Job During Protests*, REUTERS (June 2, 2020), <https://www.reuters.com/article/us-minneapolis-police-protests-new-york/new-york-governor-cuomo-says-police-failed-to-do-their-job-during-protests-idUSKBN2392CD>.

¹⁰ The CCRB has reported that Chiara de Blasio is now known as "Otto Quashie" (see ¶ 46 and Exhibit 8), but in May 2020 "Chiara de Blasio" was the name used in news reports.

having refused to leave the area and was consequently arrested for unlawful assembly.¹¹ Chiara de Blasio's arrest was widely covered by the local and national media.¹²

28. On May 31, 2020 at approximately 11:30 PM, I posted a tweet to the SBA Twitter account that included a "cut and paste" of a tweet previously posted by Shawn Cohen ("Cohen"), an investigative reporter for the Daily Mail and former Police Bureau Chief of the New York Post, related to the arrest of Chiara de Blasio. My tweet read:

How can the NYPD protect the city of NY from rioting anarchist when the Mayors object throwing daughter is one of them. Now we know why he is forbidding Mounted Units to be mobilized and keeping the NYPD from doing its job.

A copy of Cohen's tweet is attached as Exhibit 3, and a copy of my tweet is attached as Exhibit

4. For purposes of alleged confidentiality, the arrest report photo has been redacted.

29. The tweet included a photo of Chiara de Blasio's arrest report, which I had copied and pasted from a tweet previously posted by Cohen on his public Twitter account (@spccohen).

¹¹ See Elizabeth Keogh et al., *NYC Mayor Bill de Blasio's Daughter Arrested In Manhattan Protest: Sources*, N.Y. DAILY NEWS (May 31, 2020), <https://www.nydailynews.com/new-york/nyc-crime/ny-mayor-daughter-protest-arrest-20200601-ao3yphgrprfoth5r2aiqzcumtq-story.html>.

¹² See, e.g. Mark Sundstrom and Anthony DiLorenzo, *De Blasio Speaks On Daughter's Arrest In Manhattan Protests*, PIX 11 (June 1, 2020), <https://pix11.com/news/local-news/manhattan/mayor-de-blasios-daughter-chiara-de-blasio-arrested-in-nyc-protests-saturday-police/>; Mark Lennihan, *NYC Mayor Bill de Blasio's Daughter Was Arrested, As Protests In New York Continue To Turn Violent*, INSIDER (May 31, 2020), <https://www.insider.com/chiera-de-blasio-arrested-new-york-black-lives-matter-2020-6>; N'dea Yancey-Bragg and Joseph Spector, *NYC Mayor Bill de Blasio's Daughter Chiara de Blasio Arrested In George Floyd Protest*, USA TODAY (June 1, 2020), <https://www.usatoday.com/story/news/nation/2020/06/01/george-floyd-protest-bill-de-blasios-daughter-arrested/5306706002/>; Elizabeth Keogh et al., *NYC Mayor Bill de Blasio's Daughter Arrested In Manhattan Protest: Sources*, N.Y. DAILY NEWS (May 31, 2020), <https://www.nydailynews.com/new-york/nyc-crime/ny-mayor-daughter-protest-arrest-20200601-ao3yphgrprfoth5r2aiqzcumtq-story.html>; *Bill de Blasio's Daughter Arrested While Protesting In Manhattan*, CBS NEWS (June 1, 2020), <https://www.cbsnews.com/news/bill-de-blasio-daughter-chiara-arrested-manhattan-george-floyd-protests/>.

Cohen's original tweet has since been deleted. The photo of the arrest report contained de Blasio's address and date of birth, and an identification number, which resulted in the removal of the post from Twitter. That information on Chiara de Blasio was in Cohen's public report when I copied what Cohen's tweet publicly disclosed. I do not know how Cohen obtained his information.

30. In June 2021, the NYPD released documents to me that confirm that I was not the source or cause of the initial public disclosure of Chiara de Blasio's arrest report.

31. My tweet raised an important concern of SBA members and the public about Mayor de Blasio's failure to adequately arm and equip NYPD officers and sergeants to respond to the violent protests, that his failure was placing officers' lives at risk, and whether that failure was related to the fact that his daughter was a participant in those same protests. I posted my tweet as SBA President publicly addressing a matter of significant public concern about the NYPD's response to the violent protests roiling across the City, the City's failure to properly prepare police officers to respond to the protests safely, and the Mayor's potential personal motivations.

F. My SBA Twitter comment on Councilman Torres' attempt to blame police for gun-related violence by criminals

32. In September 2020, New York City Councilman Richard Torres and Brooklyn Borough President Eric Adams held a press conference outside City Hall where they called for an "independent investigation" into what they considered an illegal "slowdown" in police responses to shootings and other violent crimes throughout the City.¹³ On that same day, Torres posted a

¹³ Robert Pozarycki, *Mean Tweet From Police Union Slanders Bronx Congress Candidate As "First Class Whore"*, AMNY (Sept. 4, 2020), <https://www.amny.com/news/mean-tweet-from-police-union-slanders-bronx-congress-candidate-as-first-class-whore/>; Torres is quoted as saying: "In 2020, we saw nearly a doubling of the surge in summertime shootings. The NYPD is making fewer gun arrests, solving fewer cases and responding more slowly to gun crimes in progress. . . . The dramatic increase in gun violence can be best explained by the dramatic decrease in gun enforcement. That's why we are calling for an investigation to examine whether

tweet that contained video of the press conference wherein he criticized the NYPD for the spiking increase of gun-related violence in the streets, claiming that the NYPD was intentionally making fewer gun arrests and solving fewer gun-related cases. In the video, Torres claimed the NYPD had called for a slowdown on gun arrests, and he called for an investigation into the Department to determine the extent the alleged slowdown had contributed to the increase in violence.¹⁴ Torres' serious accusation was broadcasted over numerous major media outlets.¹⁵

33. At the time Torres made this accusation, proposed legislation calling for the City to “defund the police” was gaining attention, and the City was facing serious budget cuts, forcing the NYPD to pull officers off the street.¹⁶ All the while, the City's crime rates were steadily increasing in the midst of the pandemic, changes in the bail laws made it more likely that defendants accused of serious crimes would be returned to the community, and court operations were extremely limited with trials suspended.

there is, in fact, a work slowdown, and to what extent has the work slowdown driven the growth in violence in New York City.”

¹⁴ See @RitchieTorres, Twitter (Sept. 4, 2020 9:57 AM), <https://twitter.com/RitchieTorres/status/1301882076350816258>.

¹⁵ See Shant Shahrigian, *NYC Pol Calls for Investigation of Possible NYPD Work Slowdown*, N.Y. DAILY NEWS (Aug. 30, 2020), <https://www.nydailynews.com/news/politics/ny-nypd-work-stoppage-investigation-ritchie-torres-20200830-2m3lgyjsgvgojepkzifax7phlu-story.html>; *Is There An NYPD Work Slowdown? City Officials Want An Investigation*, ABC 7 N.Y. (Aug. 31, 2020), <https://abc7ny.com/nypd-work-slowdown-nyc-crime-violence-shootings/6396831/>; Alyssa Paolicelli, *NYC Lawmakers Call for Probe Into Suspected NYPD Slowdown*, SPECTRUM NEWS NY 1 (Aug. 31, 2020), <https://www.ny1.com/nyc/all-boroughs/news/2020/08/31/nyc-crime-rate-nypd-slowdown-concerns-ritchie-torres-eric-adams-call-for-investigation>.

¹⁶ See Elina Tarkazikis, *Top Cop Blames Budget Slash for Slow Responses: “What Did You Think Was Going to Happen?”*, SPECTRUM NEWS NY 1 (Aug. 31, 2020), <https://www.ny1.com/nyc/all-boroughs/public-safety/2020/08/31/top-cop-blames-budget-slash-for-slow-response-times-at-crime-scenes>.

34. Given that Torres was running for Congress when he issued his remarks, and raising money on the basis of these attacks on the integrity of the NYPD, I issued a press release as President of the SBA and posted a corresponding tweet to the SBA Twitter account condemning Torres for his accusations. In the tweet, I said:

He[re] we go America this is what a first class whore looks like RITCHIE TORRES. Passes laws to defund police, supports criminals, & now because he's running for office he blames the police to protect what he voted for. Remember little Ritchie? Meet LYING RITCHIE

A copy of my tweet is attached as Exhibit 5.

35. Within hours, Torres responded with a post calling me a racist and misogynist, and homophobic. Torres' post read: "The @SBA is a bona fide hate group masquerading as a union. The racism, misogyny and homophobia of Ed Mullins gives @realDonaldTrump a run for his money."¹⁷ A few days later, on September 8, 2020, Torres took to Twitter again, calling me a "racist relic of the past".¹⁸ This exchange was followed by the City, state and national media, including on national cable news shows, and was commented on by as well as on the Internet.

G. The NYPD and CCRB demand to interview me to question me about my public statements as President of the SBA

36. Beginning on July 22, 2020, I was ordered to appear in the Headquarters of the Internal Affairs Division of the NYPD, where I was involuntarily interrogated regarding my statements made as SBA President. Prior to being questioned, I was read this warning:

You will be asked questions specifically directed and narrowly related to the performance of your duties... I further wish to advise you that if you

¹⁷ See @RitchieTorres, Twitter (Sept. 4, 2020, 2:44 PM), <https://twitter.com/RitchieTorres/status/1301954387326259204>.

¹⁸ See @RitchieTorres, Twitter (Sept. 8, 2020, 8:52 PM), <https://twitter.com/RitchieTorres/status/1303496508143214593>.

refuse to testify or to answer questions relating to the performance of your official duties, you will be subject to departmental charges, which could result in your dismissal from the Police Department.¹⁹

Under NYPD Patrol Guide Procedure No. 206-13(12), members of service are obligated to “[a]nswer questions specifically directed and narrowly related to official duties.” Refusal to do so “shall result in suspension from duty.” Pursuant to NYPD Patrol Guide Procedure No. 206-13, members of service who are interviewed under Procedure No. 206-13 are subject to the provisions of Procedure No. 203-08, which establishes that: “Intentionally making a false statement regarding a material matter will result in separation from the Department, absent extraordinary circumstances.”

37. Despite objecting to the interrogation on the grounds that my speech was protected by the First Amendment and that I was speaking in my capacity as SBA president on a union platform at the time I made the public statements at issue, I was threatened with immediate suspension and potential termination if I refused to answer the questions put to me.

38. Suspension or termination threaten my position as SBA President. If I am suspended, I am not a member of the department during the period of suspension. The SBA requires its president to be an active sergeant of the NYPD – a fact known by the Defendants. (A copy of the SBA Constitution is Exhibit 6, and a copy of the By-Laws is Exhibit 7.)

39. I was interrogated by Internal Affairs on three separate dates: July 22, 2020, February 10, 2021, and February 17, 2021. On each occasion, I was ordered to answer questions about my statements made as President of the SBA on the SBA’s website and Twitter account. On each occasion, rather than risk immediate suspension, I answered the questions over my standing

¹⁹ The full text of the NYPD Garrity Warnings can be found in the NYPD Patrol Guide Procedure No. 206-13.

objection that the interviews were obvious attempts to threaten my position as SBA President and chill criticism of the Mayor and the Department.

H. CCRB charges seeking punishment for speech on political issues

40. On April 23, 2021, the CCRB filed charges and specifications against me for the three tweets discussed above that I made as President of the SBA. The CCRB is an independent City agency which investigates, makes findings and recommends disciplinary action against NYPD officers pursuant to civilian complaints. The CCRB has been given the authority to prosecute substantiated complaints which result in the recommendation of charges and specifications to impose NYPD discipline.

41. While the CCRB cannot independently impose discipline on NYPD officers, it works in conjunction with the NYPD to do so. The CCRB is the sole agency responsible for the administrative prosecution of all civilian complaints and issuing corresponding disciplinary recommendations. The NYPD Police Commissioner has ultimate authority to impose the CCRB's recommended discipline on members of service.

42. To my knowledge, in most cases, the NYPD adopts the findings and recommendations of the CCRB in its prosecution of civilian complaints, and imposes the suggested discipline on members of service.

43. On June 4, 2020, Defendant CCRB Executive Director Jonathan Darche of the CCRB advised the SBA that it was investigating me related to all three posts discussed above regarding Barbot, de Blasio, and Torres. The CCRB requested that I appear for an interview by a CCRB investigator.

44. On July 29, 2020 and again on October 12, 2020, I advised CCRB that it had no jurisdiction over me for my statements made in my capacity as a union leader and that my speech was constitutionally protected union speech.

45. On February 15, 2021, CCRB informed me that it had substantiated charges against me for the statements in the tweets on the SBA Twitter account discussed above.

46. On April 23, 2021, CCRB filed these charges and specifications against me:

- Sergeant Edward Mullins, on or about May 31, 2020, at approximately 2330 hours, while assigned to DBBS OP and on duty, abused his authority as a member of the New York City Police Department, in that he published a tweet disseminating information contained in the arrest report of Otto Quashie, formerly known as Chiara DeBlasio, without sufficient legal authority.
- Sergeant Edward Mullins, on or about May 13, 2020, at approximately 2036 hours, while assigned to DBBS OP and on duty, made disrespectful remarks regarding the gender of Oxiris Barbot, in that he published a tweet calling Oxiris Barbot a “bitch.”
- Sergeant Edward Mullins, on or about September 4, 2020, at approximately 1200 hours, while assigned to DBBS OP and on duty, made disrespectful remarks regarding the perceived sexual orientation of Ritchie Torres, in that Sergeant Mullins published a tweet calling Ritchie Torres a “first class whore.”

A copy of the CCRB charges and specifications is attached as Exhibit 8. A copy of the Patrol Guide rules that I allegedly violated is attached as Exhibit 9.

47. CCRB Deputy Chief Prosecutor Suzanne D. O’Hare and CCRB Executive Director Jonathan Darche signed these charges and specifications.

48. Each of the charges carries a potential twenty-day penalty and, under the newly implemented NYPD Disciplinary System Penalty Guidelines, can result in Plaintiff’s suspension or termination from his position as a police sergeant, thereby effectively removing him from his position as the elected President of the SBA. (A copy of the NYPD Disciplinary System Penalty Guidelines is attached as Exhibit 10.)

I. NYPD charges seeking punishment for speech on political issues

49. In addition to the CCRB charges referenced above, on February 24, 2021, the NYPD, filed its own formal disciplinary charges against me alleging:

- Said Sergeant Edward Mullins assigned to Detective Borough Brooklyn South Operations, on or about May 31, 2020, improperly divulged or posted a portion of a Department arrest report on a social media site.
- Said Sergeant Edward Mullins assigned to Detective Borough Brooklyn South Operations, on or about and between May 31, 2020 and February 15, 2021, having become aware of a possible allegation of misconduct against another Member of Service, wrongfully failed to report said allegation to the Internal Affairs Bureau, as required.
- Said Sergeant Edward Mullins assigned to Detective Borough Brooklyn South Operations, on or about May 31, 2020, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant improperly disclosed personal information of a person including home address, date of birth, or identification card number on a social media site.

A copy of the NYPD charges and specifications is attached as Exhibit 11, and a copy of the Patrol Guide rules I allegedly violated is included in Exhibit 9. The second NYPD charge apparently concerns an otherwise unexplained and unsupported allegation that I was aware of some other “possible” allegation that someone else had improperly disclosed confidential police information. I deny this.

50. Defendants NYPD Deputy Inspector Bienvenido Martinez and Assistant Chief Joseph B. Veneziano signed these charges, which were filed in connection with my Twitter response to the arrest of Chiara de Blasio, discussed *supra*. These formal specifications and charges were served on me on March 3, 2021.


51. In June 2021, the NYPD produced to me copies of documents connected with the disciplinary charges brought against me. These included documents showing that the NYPD has been secretly investigating the telephone records of me, my son, and the SBA, without providing

advance notice and without any opportunity to object. The NYPD documents also confirm that I was not the source or cause of the initial public disclosure of Chiara de Blasio's arrest report, as I noted above when discussing my response to the arrest report's release by others (PP 28-29).

J. Intimidation

52. I am not easily intimidated and do not intend to be silenced by the Defendants. But the Defendants' actions in investigating and charging me for speaking out on political issues are a real threat and I am affected. I am seeking court relief so that the Defendants will no longer attempt to silence my comments and criticism, made as SBA President, on political issues and positions that affect the well-being not only of NYPD sergeants and all NYPD officers, but also of everyone who lives in, works in, or visits our City and community.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 25, 2021.



Edward D. Mullins